

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

KATHLEEN P. MULLINIX,

Plaintiff,

V.

KIKI BOGORAD-GROSS and LEONARD P. BOGORAD, As They Are Executors of the Will of Lawrence Bogorad,

Defendants.

Civil Action No. 04-12684-WGY

PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, plaintiff Kathleen P. Mullinix hereby moves the Court to grant summary judgment with respect to Ms. Mullinix’s underlying claims. Defendants Kiki Bogorad-Gross and Leonard P. Bogorad’s (collectively, the “Defendants”) Motion for Summary Judgment and Statement of Undisputed Material Facts Pursuant to Local Rule 56.1, reveal that the undisputed evidence on the record demands summary judgment in favor of Ms. Mullinix.

1. Ms. Mullinix filed this action when the Defendants refused to honor Mr. Bogorad's obligations to her concerning renovations to her apartment. Mr. Bogorad entered valid and binding agreements with Ms. Mullinix. Mr. Bogorad induced Ms. Mullinix to sell her apartment in New York City and to buy another apartment, which would -- and did -- require considerable financial commitments. The *only* reason Ms. Mullinix sold her apartment and bought a new one was because Mr. Bogorad committed to pay for the renovations relating to the new apartment, the monthly maintenance fees related to the apartment, one-half the storage costs while the new

apartment was being renovated and one-half the tax consequences from the sale of her apartment.

2. This Cross-Motion is in response to the Defendant's Motion for Summary Judgment. The Defendants did not offer any evidence, or indicate the ability to offer any evidence, that disputes Ms. Mullinix's evidence that Mr. Bogorad entered into a valid and enforceable agreement with Ms. Mullinix. Furthermore, the Defendants did not offer any evidence that disputes that Ms. Mullinix reasonably and foreseeably relied upon Mr. Bogorad's clear and unambiguous promises to her detriment. There are no issues of material fact that remain in dispute relating to the elements of breach of contract or promissory estoppel.

3. The Plaintiff respectfully requests the Court grant this Cross- Motion for Summary Judgment for the reasons set forth in the accompanying Memorandum In Opposition To Defendants' Motion For Summary Judgment And In Support Of Plaintiff's Cross-Motion For Summary Judgment.

Respectfully submitted,

KATHLEEN P. MULLINIX,
By her attorneys,

/s/ Sara E. Solfanelli

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Date: June 19, 2006

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on June 19, 2006.

/s/ Sara E. Solfanelli